



**Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0000965-09-0
(WPDES Permit) Issued to Wisconsin Public
Service Corporation (Pulliam)

Case No. DNR-13-056

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0000965-09-0
(WPDES Permit) Issued to Wisconsin Public
Service Corporation (Pulliam)

Case No. DNR-13-066

NOTICE OF TELEPHONE PREHEARING CONFERENCE

On August 1, 2013, the Department of Natural Resources issued WPDES Permit No. WI-0000965-09-0-0 to the Wisconsin Public Service Corporation to discharge from a facility located at Bylsby Avenue in Green Bay, Wisconsin to Green Bay at the Mouth of the Fox River. The Permit was issued with effluent limitations, monitoring requirements and other conditions.

On August 30, 2013, Attorney Sarah A. Slack on behalf of the Wisconsin Public Service Corporation filed a Petition for Permit Review and Contested Case Hearing with the Department of Natural Resources to review the reasonableness of and necessity for certain terms in the permit.

By letter dated September 12, 2013, the Department of Natural Resources granted the request for hearing from the Wisconsin Public Service Corporation pursuant to Wis. Stat. §§ 283.63 and 227.43 and limited the hearing to the following issues:

1. Taking into account the receiving waters impacted by the thermal discharge from the Pulliam facility, whether the Department's determination of the mixing/transition zone between the Fox River and Green Bay and the Department's calculations of the weekly average and daily maximum temperature effluent limits in section 4.2.1 of the Permit are unreasonable?
2. Whether the provisions in sections 4.2.1.7.5 and 4.2.1.7.6 of the Permit for reporting compliance with weekly average temperature limits when a calendar week includes parts of two different months are unreasonable?

On October 11, 2013, Attorney James N. Sauk on behalf of Petitioners Sierra Club, Clean Water Action Council of Northeastern Wisconsin, Inc., Eric Uram, James Steffens, Alexandra DeLucenay, Don Ferber, David Blouin, Laura Keyser, Will Stahl, Dean Hoegger, John Hermanson and Lynn Utesch filed a First Amended Verified Petition for Review and Contested Case Hearing with the Department of Natural Resources to review the reasonableness of and necessity for certain terms in the permit.

By letter dated October 21, 2013, the Department of Natural Resources granted the request for hearing from the Petitioners pursuant to Wis. Stat. §§ 283.63 and 227.43 and limited the hearing to the following issues:

1. Whether the Department's determination is section 1.1 of the Permit to allow WPSC to use the existing cooling intake structures is unreasonable under s. 283.31(6), Wis. Stat.?
2. Whether the Department's determination in section 1.3 of the Permit that the existing intake structures meet the "best technology available" requirement of s. 283.31(6), Wis. Stat. is unreasonable?
3. Whether section 4.2.1 of the Permit is unreasonable under state law because this section does not contain best available technology economically achievable limitations for some pollutants (including, but not limited to, arsenic, lead, mercury and selenium) that may be discharged via Outfall 001 from WPDC's bottom ash transport water, fly ash transport water, and coal pile runoff?
4. Whether the temperature limitations in section 4.2.1 of the Permit are unreasonable because section 4.2.1 does not contain technology-based effluent limitations (TBELs) for temperature under state law?
5. Whether the water quality based effluent limitations (WQBELs) for temperature in section 4.2.1 of the Permit and the Department's calculation of the mixing zone for temperature are unreasonable under state law?

On May 1, 2014, the Division of Hearings and Appeals received a Request for Hearing from the Department of Natural Resources regarding both Petitions.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will initiate a telephone prehearing conference on the above matters pursuant to Wis. Stat. §§ 227.42, 283.31, 283.63 and Wis. Admin. Code chs. NR 102 and 106 on **July 8, 2014, at 10:00 a.m.** Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. **To so participate, said persons must write to the Division of Hearings and Appeals, at least three days prior to the July 8th telephone prehearing conference, in care of the undersigned and indicate a phone number where they can be reached at the above mentioned time.** If

necessary, the purpose of the prehearing conference will be to identify parties to the proceeding, to simplify the issues which may be contested at the hearing, establish a discovery schedule and set a date for hearing. No testimony will be heard at the prehearing conference; however, a date may be set for the hearing on the merits at the conference.

When the hearing is held it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a) and the fair play provisions of Wis. Stat. ch. 227 will apply. The procedures relating to contested cases set forth in Wis. Admin. Code ch. NR. 2 will be followed. The procedure that will be followed at the public hearing will closely resemble that normally followed at a court hearing. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the public hearing.

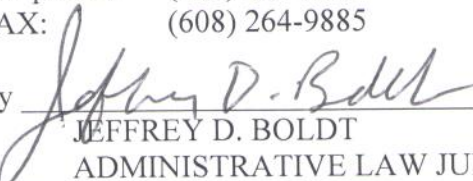
The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Madison, Wisconsin on May 13, 2014.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
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FAX: (608) 264-9885

By


JEFFREY D. BOLDT
ADMINISTRATIVE LAW JUDGE